



STATE OF DELAWARE

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June 16, 2015

MEMORANDUM

TO: The Chair and Members of the Commission

FROM: Toni Loper, Public Utility Analyst 

SUBJECT: IN THE MATTER OF THE APPLICATION OF SOURCE POWER & GAS, LLC FOR A CERTIFICATE TO PROVIDE ELECTRIC SUPPLY SERVICES WITHIN THE STATE OF DELAWARE (SUBMITTED FEBRUARY 4, 2015; FILED JUNE 10, 2015) - PSC DOCKET No. 15-0673

Background

On February 4, 2015, Source Power & Gas, LLC (the "Company") submitted an application (the "Application") with the Delaware Public Service Commission ("Commission") for an Electric Supplier Certificate ("ESC") to act as a Supplier in the State of Delaware pursuant to §1012 of the Electric Utility Restructuring Act of 1999, 26 *Del. C.* §1001 - §1020 (the "Act") and 26 *Del. Admin. C.* §3001, the Commission's Rules for Certification and Regulation of Electric Suppliers (the "Supplier Rules").¹

Application

The Company's original filing was submitted on February 4, 2015 but the submitted Application did not meet the minimum filing requirements ("MFRs"). Staff requested the Company file additional documentation where it was requested that the Company provide the following information: a) a signed, sworn verification letter as required. Follow-up documentation was received, but upon further review Staff requested that the Company supply an affidavit of publication which was omitted from the supplemental filing. The requested verification form was received from the Company, but pursuant to legal review it was determined that the Guarantee originally submitted with the application satisfying the \$100,000 of unencumbered assets did not meet the Supplier Rules and the Company was advised on appropriate remedies to address this requirement. The Company subsequently submitted a letter of credit and the receipt of this documentation satisfied the MFRs.

Review and Analysis

Authority to do Business in Delaware

The Company is a limited liability company formed under the laws of Texas and has provided proof issued by the Delaware Secretary of State that it is legally authorized and qualified to do business in the State of Delaware.

¹ Unless otherwise noted, all references to capitalized terms are set forth in the Act and/or the Supplier Rules.

Resident Agent

The Company supplied the contact information for a Delaware Registered Agent listed in the Application as Corporation Trust Company, Wilmington, DE.

Performance Bonds

The Company currently does not have a performance bond but stated in the Application that if a bond is required by the Electric Distribution Company (EDC) the Company will secure the bond as required and provide the required documentation to the Commission.

Compliance with Regional Requirements

The Company provided proof of PJM membership. The Company provided a copy of the FERC approval as a marketer.

Financial, Operational, Managerial and Technical Ability

The Company provided confidential financial statements for Source Power & Gas as indicia of financial capability under Section 2.1.1.5.1 of the Supplier Rules. The Company also provided proof of a minimum of \$100,000 of assets in excess of encumbrances as required in Section 2.1.1.5.8 of the Supplier Rules in the form of a letter of credit issued by Mizuho Bank.² Staff believes that the financial statements and proof of liquidity show substantial evidence of the Applicant's financial ability to provide services as an Electric Supplier in the State of Delaware.

The Company anticipates acting as a Supplier serving residential, commercial, and industrial customers for the sale or purchase of electricity throughout the State of Delaware. The Application states that the Company is presently licensed to sell electricity in Illinois, Maryland, New Jersey, Ohio and Texas. Staff confirmed that the Company is licensed in those states by conducting an internet search of the Secretary of State Websites for the states listed. The Application states that the Company has not been denied approval nor had its authority revoked by any state commission. The Company provided a toll-free customer service telephone number. Staff believes that this information shows substantial evidence of the Applicant's operational ability to provide services as an Electric Supplier in the State of Delaware.

The Application included a summary of the key operating personnel of the Company. Mr. John Werner, President, has over four years' of experience in management positions where his responsibilities included hiring team members, developing new products, establishing relationships with aggregators, brokers, consultants and wholesale suppliers in the energy industry. Mr. Werner also has experience as Senior Legal Counsel for an energy industry company, where he was responsible for all aspects of legal affairs, assisting with the management and coordination of various functional groups within the organization including sales and marketing, pricing, structuring, supply, forecasting and scheduling. Mr. Qadir Khan has more than four years' of management experience. His responsibilities include enterprise financial and administration responsibilities including profit and loss responsibilities, and buying and selling of power and energy in wholesale markets. Mr. Khan has held positions with several energy industry companies where his duties included creating pricing models, managing retail pricing desk, managed retail load positions, as well as directing scheduling activities and assisted with settlements. The Company also provided detailed resumes for several other key operating personnel in support of their Application. Staff believes that the Company has demonstrated substantial evidence that its staff has the operational, managerial, and technical abilities to perform as a Supplier in the State

² As required in the Supplier Rules the Letter of Credit sets forth a termination date of July 7, 2016.

of Delaware. Staff performed an internet review of the key operating personnel and found no outstanding issues.

Surety Bond

The Company did not post a surety bond since it does not require Customers to provide deposits, prepayments, financial guarantees or the like.

Verification of Application

The Application and all subsequent filings were verified by Mr. Werner, President.

Consent to Jurisdiction

The Company consents to the jurisdiction of the Delaware courts.

Contracts

The Company did provide sample residential and small commercial contracts for Staff to review as a part of the Application. Staff reviewed the contracts and believes that they are consistent with the Supplier Rules.

Statement of Criminal Activity

The Applicant stated that they have not been charged or convicted of any criminal activity nor have any of its principals or corporation offices. An internet review of the Company and its principals revealed no issues.

Public Notice

Source Power & Gas was advised that, pursuant to Section 2.2 of the Supplier Rules, the Company was required to publish notice of its filing in two general circulation newspapers in Delaware. The Company provided the appropriate affidavits of publication. Notice was published in the Delaware State News on February 23, 2015 and in The News Journal on February 25, 2015. There were no interventions, protests, or comments filed in the docket within the 20-day comment period.

Legal Review

During the review and analysis process and each phase of the request for additional documentation for this Application Staff communicated with the assigned Attorney to ensure that all required documentation requested and received from the Company was in compliance of Delaware Law and the Supplier Rules and regulations. Staff submitted this memo for review by the Attorney on June 17, 2015.

Staff Recommendation

Based on Staff's review and analysis of the Application, the Company has satisfied the requirements of the Act and the Supplier Rules. The Company resolved all outstanding issues with Staff and the completed Application supports the Company's request for certification. Staff's review and analysis of the Application submitted by the Company demonstrates substantial evidence of capability to render service and an Electric Supplier based on the Company's financial, operational, managerial and technical abilities. Therefore, Staff recommends the Commission approve the Application.